

[Doc. No. 2]

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

KEITH DIJUAN DAWSON,

Plaintiff,

v.

JOSE FRIAS et al.,

Defendants.

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Civ. No. 09-6050 (RMB/JS)

ORDER

This matter is before the Court on "Plaintiff Request for Production of Documents" [Doc No. 2] filed by pro se plaintiff, Keith Dijuan Dawson. Plaintiff seeks to have the Court issue an order compelling defendants to produce documents. See Plaintiff's Motion at 1. No opposition has been filed to plaintiff's Motion. The Court exercises its discretion to decide plaintiff's Application without oral argument. See Fed. R. Civ. P. 78; L. Civ. R. 37.1(b)(3). For the reasons to be discussed, plaintiff's Application is DENIED.

Rule 37(a) of the Federal Rules of Civil Procedure provides that, on notice to other parties and all affected persons, "a party may move for an order compelling disclosure or discovery." See Fed. R. Civ. P. 37(a)(1). The Rule provides that a motion to compel a discovery response is appropriate when "a party fails to answer an interrogatory submitted under Rule 33" or when "a party fails to respond that inspection will be permitted -- or fails to permit inspection - - as requested under Rule 34." See Fed. R. Civ. P. 37(a)(3)(B). In this case, plaintiff allegedly served his discovery requests on December 10, 2009. According to the docket entries defendants still have not been served with the complaint.

The Court finds that plaintiff's discovery requests are premature. See, e.g., Bacon v. Maricopa County Sheriff's Office, No. Civ. A. 08-1673, 2008 WL 4629506, at *4 (D. Ariz. Oct. 17, 2008) (in denying plaintiff's motion to compel discovery, court noted that "Plaintiff's request for discovery is premature. Defendants have not been served or filed an answer"); Famous v. Pollard, No. 07-C-847, 2008 WL 444652, at *1 (E.D. Wis. Feb. 15, 2008) ("[T]his case has not entered the discovery phase thereby making the plaintiff's motion [to compel discovery] premature. Once the defendants have filed an answer, the court will enter a scheduling order setting deadlines for the completion of discovery as well as the filing of dispositive motions"); Conley v. Dormire, No. 07-4179, 2008 WL 141682, at *3 (W.D. Mo. Jan. 11, 2008) ("Plaintiff's discovery requests . . . are also premature and are improperly filed with this court. Discovery is properly conducted after an answer has been filed[.] . . .").

Accordingly, for all the foregoing reasons,

IT IS hereby ORDERED this 23rd day of March 2010 that "Plaintiff Request for Production of Documents" is DENIED without prejudice.

/s/ Joel Schneider

JOEL SCHNEIDER
United States Magistrate Judge